LIBRARY
SUPREME COURT, U. S.

Supreme Court, U.S.
FILED
OCT 5 1970
E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 440

ANDREW J. EASTER,
Petitioner,

vs.

AETNA INSURANCE COMPANY,
Respondent.

Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

---

MEMORANDUM OF PETITIONER IN REPLY TO RESPONDENT'S BRIEF IN OPPOSITION

ANDREW J. EASTER
In Proper Person

Legal Resident of Maryland
6420 Belair Road
Baltimore, Maryland 21206

Temporary and Forwarding Address
2801 Adams Mill Road, N.W.,
Apt. 108
Washington, D. C. 20009

MEMORANDUM OF PETITIONER IN REPLY TO RESPONDENT'S BRIEF IN OPPOSITION

The Writ was submitted for consideration and action to clarify the decisions of the lower courts and facts pretaining to same including the fact that petitioner had submitted to respondent's licensed agent Raymond M. Duvall, a Proof of Loss Notice, on October 24, 1963, page 3, herein, the respondent was late in Cancelling of Policy on July 3, 1964, page 4, of respondent's BRIEF IN OPPOSITION, and as stated on page 4 herein.

The petitioner had filed Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit on July 23, 1970; the respondent's attorney had filed a BRIEF IN OPPOSITION on August 29, 1970, which date is in excess of the time stated in Rule 24 to file forty printed copies of an Opposing Brief.

On the 24th day of July, 1970, at the request of the Clerk of the Supreme Court, petitioner served 3 copies to Aetna Insurance Company, Hartford, Connecticut, by certified mail, return receipt requested, and 3 copies to George M. Radcliffe, attorney for respondent, 929 North Howard Street, Baltimore, Maryland 21201; and on July 27, 1970, a Proof of Service was filed in the office of the clerk of the court, including an appearance form to be filed with respondent's brief.

On September 1, 1970, petitioner received a letter dated August 31, 1970, from respondent's attorney, including two copies of Aetna Insurance Company's Brief in Opposition, and a copy of a letter to the clerk of the court reference the printer forwarding copies of the Brief in Opposition to the court.

That on February 11, 1970, the United States Court of Appeals for the Fourth Circuit decided PER CURIAM: page 14 herein, page 16 of Writ:

Our examination of the briefs and record satisfies us that this appeal is without merit and that the district

judge committed no reversible error. We dispense with argument and affirm.

AFFIRMED.

That the ORDER was prepared by respondent's attorney, pages 7-9, and signed by United States District Court Judge of District of Maryland, page 10, of Writ, wherein the Defendant's Motion was denied in part as to certain claims asserted by the plaintiff in his amended declaration, and granted in part as to certain claims asserted by the plaintiff, as follows:

1. The Defendant's said Motion to Dismiss is denied as to the alleged claim by the Plaintiff for $250 fire damages on September 29, 1963, in the premises at 6420 Belair Road.

2. The Defendant's said Motion to Dismiss is denied as to the alleged claim by the Plaintiff for vandalism damages occurring prior to July 3, 1964, to the premises 6502 Belair Road.

3. The Defendant's said motion to dismiss is denied as to the Plaintiff's allegations concerning "Compensatory Damages."

United States District Judge

The petitioner hereby request the Supreme Court of the United States to ORDER the respondent, Aetna Insurance Company, Hartford, Connecticut, to pay the above as required and as stated in their polices, pages 1-2, of Writ; and as per Order prepared by respondent's attorney and signed by the judge of the United States District Court, District of Maryland, pages 7-10 of Writ; and as Cited on page 31 of Writ that fire insurance is a contract of indemnity against actual loss by the insured, and page 32 of Writ reference cancellation of policy wrongfully by insurer.

Petitioner request that the insurance and all other claims be paid with costs by the respondent, and that the Order should be granted.

Respectfully submitted,

/s/ Andrew J. Easter
ANDREW J. EASTER
Petitioner
In Proper Person

CC: Mr. George M. Radcliffe
Respondent's attorney
929 North Howard Street
Baltimore, Maryland 21201

Aetna Insurance Company
Respondent
Hartford, Connecticut

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 440

ANDREW J. EASTER,

Petitioner,

vs.

AETNA INSURANCE COMPANY,

Respondent.

Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

---

MEMORANDUM OF PETITIONER IN REPLY TO RESPONDENT'S BRIEF IN OPPOSITION

6420 Belair Road—

Policy No. 80 39 36, Aetna Insurance Company, Hartford, Connecticut, May 8, 1962, to May 8, 1967, Five years—Fire and Lightning, Extended Coverage, Subject to Form Nos. 804F—Rev. 11-61—Building and Contents Form—(Other than Dwelling) and Warranty Clause—248. (2500 sq. ft.)

Agency at Baltimore, Maryland, Raymond M. Duvall, Agent, 3303 Alto Road, Baltimore 16, Md., Phone WI 7-4328, Countersignature Date May 8, 1962.

$15,000.00 80% On Coverage A-Brick, approved roof building, occupied as Tavern (single commercial occupancy) and Dwelling with not more than four family occupants or residential apartments and five roomers or borders, situate No. 6420 Belair Road, Baltimore City, Maryland (21206) Protected—other than manufacturing (mercantile occupancy).

"IN CONSIDERATION OF THE PROVISIONS AND STIPULATIONS HEREIN OR ADDED HEREIN * * * this Company, for the term of years specified above from inception date shown above * * * does insure the insured * * * to the extent of the actual cash value * * *.

This policy is made and accepted subject to the foregoing * * * together with such other provisions, * * * as may be added hereto, as provided in this policy."

6502 Belair Road—

Policy No, 80 39 43, Aetna Insurance Company, Hartford, Connecticut, October 25, 1962, to October 25, 1965, Three years—Fire and Lightning, Extended Coverage, Other Perils, Subject to Form Nos. 879D (Rev. 11-61) Dwelling Building and Contents —Broad Form.

Agency at Baltimore, Maryland, Raymond M. Duvall, Agent, Countersignature Date 10/23/62

$10,000.00 On Frame, approved roof Dwelling situate about 250 feet northerly of Dwelling No. 6420 Belair Road and about 1750 feet westerly of Belair Road, Baltimore City, Maryland, (6502 Belair Road, Baltimore City, Maryland 21206) Protected.

"IN CONSIDERATION—etc. (same as above)

All notices, etc., were made immediately, directly and personally to Raymond M. Duvall, their authorized agent, for information etc., therefore the claims were made by him, etc., as will be proven by his —PERSONAL

MEMO—, etc., and thereafter phone calls, letters, etc., were made directly with Aetna's Hartford office and their New York and Baltimore agencies involved.

—PERSONAL MEMO—

Raymond M. Duvall
3303 Alto Road
Baltimore 16, Md.

October 24, 1963

(Mr. Andrew J. Easter
2801 Adams Mill Road, N.W., Apt. 108
Washington, D. C.)

Dear Andrew:

Re: Proofs of Loss, 6420 Belair Road, type in spaces: Time and Origin; Changes except Cash Value; Whole Loss and Damage; Amount Claimed; Schedule F.

Frame Dwelling, type in spaces listed a and spaces as to: loss and damage by: Occupant vacant from to ; as X on Proofs.

Sign your name on line above "The Insured", have Notary sign, date and affix Notarial Seal on both Proofs, *return same to me* and I will attached Form 804E and 879D to each Schedule A.

Suggestion: Read your Policies and Forms attached to each Policy.

May I have your check for $100.16 Policy #OTL 165098 Liability effective 9-11-1963. Best wishes to Mrs.

RAYMOND M. DUVALL

5 inc: Invoice

Ck. 117, Oct. 25, 1963

Proof of Loss in duplicate 4.

* Personal Memo. filed in Record as Enclosure F.

STATE INSURANCE
DEPARTMENT OF MARYLAND
301 West Preston Street
Baltimore, Md.

October 20, 1961

Dear Mr. Easter:

Re: Raymond M. Duvall

With reference to your inquiry concerning the above, we wish to advise that Mr. Duvall holds current agent's license with the Aetna Insurance Company.

This license was issued as of September 22, 1961.

Yours very truly,

F. DOUGLASS SEARS
Commissioner

MRS. RITA L. PARB,
Principal Clerk

Aetna's Notice of June 26, 1964, CANCELLATION OF INSURANCE POLICY to terminate 12 Noon July 3, 1964, on all OTHER POLICIES OF YOUR INSURED including Liability Policy, etc., jeopardizes the insured, by Aetna reference prior claims, etc., resulting in the delapidated and hazardous condition, etc., of Frame Dwelling; unprotected and further liabilities, Punitive, Exemplary and Pecuniary Damages—especially since CANCELLED POLICIES affect the insured in that he cannot obtain any coverage from any other companies, etc.

Honorable Edward S. Northrop
U. S. District Court for the
District of Maryland
Room 534, Post Office Building
Baltimore, Maryland 21202

November 5, 1968

Re: Easter v. Aetna Insurance Company
Civil Action No. 16655

Dear Judge Northrop:

Andrew J. Easter, plaintiff herein, files this Petition for Reconsideration of or for Rehearing of above case which was heard and dismissed on October 28, 1968, and urgently request you to again review the proceedings thereof and to consider the following incidents, etc.

First reason for granting the above is that an important witness, Mr. Newton I. Steers, Jr. an Insurance Commissioner of the State Insurance Department of Maryland, located in the State Office Building, 301 West Preston Street, Baltimore, Maryland 21201, By CIVIL SUBPOENA of October 21, 1968, Mr. Steers was COMMANDED to appear in the above case on the 28th day of October 1968 at 10 o-clock a.m. to testify on behalf of Plaintiff in the above entitled action and bring with him all documents with reference to continuation of hearing in respect to policies of property insurance cancellations on July 22, 1968 by the State Insurance Department, October 21, 1968 Andrew J. Easter, Proper Person, By Ellen C. Moore, Deputy Clerk, Department of Justice RECEIPT U. S. MARSHAL A 615205 MARSHAL'S NO. 17968.

On October 25, 1968, Mr. Hunter, also a member of the State Insurance Department of Maryland and one of the five members at said meeting phoned plaintiff that he would be at above case on October 28, 1968 instead of Mr. Steers; but instead of Mr. Hunter appearing a young two year technical employee of the depart-

ment testified as to his limited knowledge reference Cancellations of Insurance Policies and Complaints, etc.

Second reason for reconsideration of the case is that of the testimony of a Baltimore Building Inspector, that on July 25, 1963—6502 Belair Road—in need of repair—delapidated condition—open to public—creating haphazard condition—rectify—doors—windows—vandalized and fire—work order September 17, 1965 to wrecking company, Hartford Construction Co., who demolished and cleared the premises; which was completed 6 a.m., for which the City charged the plaintiff $790.00.

Since the arbitrary cancellation of all the policies by the Aetna Insurance after the Proof of Loss and damage claims were filled, all of the other insurance companies refused to insure the plaintiff's other properties as experienced by the plaintiff, therefore it may become necessary to take other actions such as to the Criminal Court to contest—any business license including all concerned for taking premiums, etc., without fulfilling their contracts and other obligations, etc.

Since Your Honor was sympathic by your statements at the Trial reference right of cancellation by insurance companies and the insured as stated in the policies, said right, if contrary to right and the law, does not apply especially since the Proof of Loss claims for damages had been filed for $250. for 6420 Belair Road, and $3000. spent for converting 6502 dwelling into two apartments, which were later vandalized and one half of building destroyed by fire after above claims were filed; the City demolished the remains as a hazard to the highway, in spite of injunctions filed; since the dwelling was 170 feet off the street with no trespassing sign posted and was insured for $10,000.

Since the Court overlooked the fact that the Aetna Insurance Company cancelled all policies including the three other properties owned by the plaintiff even after

the claims had been filed, the decision to Dismiss and the Order for the plaintiff to pay the Costs was arbitrary and would still add more to Loss and Damages already incurred including the Loss of Revenue, which is essential and necessary to pay taxes, etc.

In answer to Your Honor's suggestion for Settlement —defendant's counsel's offer to settle was so ridiculously small as to not even to pay for plaintiff's prior lawyer's fees, the personal and phone calls, correspondence, etc., not mentioning the $10,000. policy for complete loss of dwelling and especially cost of Appeals, premium costs and compensatory damages $100,000., not including potential future losses of plaintiff's other properties due to other insurance companies refusing to issue insurance policies to the plaintiff.

Yours truly

/s/ Andrew J. Easter
ANDREW J. EASTER
In Proper Person

Legal Resident of Maryland
6420 Belair Road
Baltimore, Maryland 21206

Temporary and forwarding address
2801 Adams Mill Road, N.W.,
Apt. 108
Washington, D. C. 20009

CC. Mr. George M. Radcliffe
Mr. Wilfred W. Butschky, Clerk
U. S. District Court

Footnote

All of the result of officials who evade their responsibility to the taxpayer.

UNITED STATES DISTRICT COURT
Office of the Clerk
DISTRICT OF MARYLAND

Wilfred W. Butschky
Clerk

Baltimore, Md. 21202

December 3, 1968

Mr. Andrew J. Easter
Apt. 108
2801 Adams Mill Road, N.W.
Washington, D. C. 20009

Dear Sir:

This is to advise you that the hearing on Motion of Plaintiff for New Trial filed in the case of Easter v. Aetna Insurance Co. No. 16655 Civil Docket, has been set for hearing on Friday, December 13, 1968 at 10:30 o'clock A. M. before Honorable Edward S. Northrop United States District Judge.

An acknowledgement of the receipt of this letter will be appreciated.

Very truly yours,

WILFRED W. BUTSCHKY,
Clerk

By: /s/ Earl L. Graham
Deputy Clerk

Received Apr 17 3:39 PM '69, Clerk,
U. S. District Court, District of Maryland

Clerk—U. S. District Court for the
District of Maryland
Room 534, Post Office Building,
Baltimore, Md.

April 17, 1969

Re: Easter v. Aetna Insurance Company
Civil Action No. 16655

NOTICE OF APPEAL

Notice is hereby given that the plaintiff, Andrew J. Easter, hereby appeals to the United States Court of Appeals for the Fourth Circuit, Richmond, Virginia; from the—

ORDER

The Plaintiff's Petition for Reconsideration of or for Rehearing of the above entitled case, dated November 5, 1968, and filed in the above proceedings, having been scheduled for hearing before this Court on Friday, March 21, 1969, at 10 o'clock a.m., the Plaintiff having appeared in proper person and presented argument thereon, it is this 24 day of March, 1969, ORDERED, by the United States District Court for the District of Maryland, that the Plaintiff's Petition for Reconsideration of or for Rehearing (construed by this Court to be a Motion of Plaintiff for New Trial) be and the same is hereby denied.

The above Order contradicts and is contrary to the judge's order and statement to the defendant's counsel "to pay the plaintiff" etc., at the preliminary hearing for calendering the trial; and the judge's suggestion to the plaintiff to present the bills, receipts, etc.,. reference cost to repair and convert the Frame Dwelling into first

and second floor apartments, etc., which cost $3000.00, taxed $7000.00, and was insured for $10,000.00, and was retained for evidence, etc., for Proof of Loss Claim; but was Demolished 6. A.M. July 23, 1963, by the city and charged the plaintiff $790.00, in spite of the fact the dwelling was located 170 feet off the highway with No Trespassing signs posted all of which created—costs for court, transcripts, harassment, and requiring compensatory, punitive and exemporary damages.

ALL OF THE EXHIBITS WERE TENDERED AT THE HEARING FOR A REHEARING OR NEW TRIAL, YET THE JUDGE WOULD NOT PERMIT OR ALLOW THE PLAINTIFF TO PRESENT THEM FOR THE RECORD.

Although the judge ordered the defendant to pay the plaintiff in the prior actions, the reaction of the judge in dismissing the above case could be due to and the result of the courts and the government for permitting the insurance companies, etc., to Cancel the Policies after Proof of Lost Claims had been filed, as in this case; and as announced by Commissioner Newton I. Steers, Jr., of the State Insurance Commission, on July 22, 1968, in room 801 of the State Office Building, 301 West Preston Street, Baltimore, with respect to the extent to which policies of property insurance in Maryland are being and have been cancelled.

Please send to me the cost of a copy of the Index of all of the actions on file, and the cost to deliver the entire original file to the Court of Appeals in Richmond, Virginia, and eventually if the above court is not re-

versed, than to the Supreme Court of the United States in Washington, D. C.

Respectfully yours,

/s/ Andrew J. Easter
ANDREW J. EASTER
In Proper Person

Legal Resident of Maryland
6420 Belair Road
Baltimore, Maryland 21206

Temporary and forwarding address
2801 Adams Mill Road, N.W.,
Apt. 108
Washington, D. C.

CC: Mr. George M. Radcliffe
Attorney for defense
Aetna Insurance Co.
Hartford, Connecticut

March 18, 1969

Mr. John D. Hunter
Chief Investigator
State Insurance Department
of Maryland
301 West Preston Street
Baltimore, Maryland 21201

RE: Property Insurance Cancellations and Andrew J. Easter vs. Aetna Insurance Company, Civil Action No. 16655, United States District Court, District of Maryland, March 21, 1969—before Judge Edward S. Northrop, On Motion of Plaintiff for New Trial

Dear Mr. Hunter:

In reference to your letter of January 2, 1969, and our telephone conversation on March 7, 1969, we made an appointment for me to visit the office on March 13, 1969, between 10:30 to 12:00, regarding licenses and practices, etc., especially reference cancellations by Aetna Insurance Co. after Proof of Loss Claims had been filed for vandalism and fire of the Frame Dwelling located at 6502 Belair Road, Baltimore, Maryland.

Upon arrival at the office, Mr. Leroy Shaver, Assistant Chief Investigator said you were at Annapolis in reference to obtaining a law pretaining to insurance, etc., during conversation with him he answered phone calls and said "get a lawyer", which statement was contrary to the Duty of the State Insurance Department of Maryland, and Commissioner Newton I. Steers, Jr., announcement at the Hearing reference property insurance cancellations on July 22, 1968.

This letter is written to inform you about the hearing On Motion of Plaintiff for a New Trial, as it is important that the judge be informed about cancellations, etc., by insurance companies; please send someone familiar

with the actual facts and who knows about the cancellations, etc., by fire insurance companies, which I understood from the meeting on July 22, 1968, information with respect to the extent to which policies of property insurance in Maryland are being and have been cancelled.

Although you phoned that you would appear at the trial on October 28, 1968, instead of Mr. Steers who I had subpoenaed; a young man appeared as your substitute and testified that "he was not familiar with cancellations, etc."

As the Courts are entitled to and rely on information pertaining to evidence of the facts for the good and welfare of the people of the State and the Country. Please direct the insurance companies, etc., to comply with their contracts. Hope to see you at the above.

Very truly yours

ANDREW J. EASTER
In Proper Person

Attached hereto—about 50
"Items of the actions"

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13,571

ANDREW J. EASTER,
Appellant,

versus

AETNA INSURANCE COMPANY,
Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore.
Edward S. Northrop, District Judge.

(Decided February 11, 1970.)

Before HAYNSWORTH, Chief Judge, and WINTER and BUTZNER, Circuit Judges.

Andrew J. Easter, on brief as Appellant Pro Se, and George M. Radcliffe on brief for Appellee.

PER CURIAM:

Our examination of the briefs and record satisfies us that this appeal is without merit and that the district judge committed no reversible error. We dispense with argument and affirm.

AFFIRMED.

February 17, 1970

Mr. Samuel W. Phillips, Clerk
United States Court of Appeals
Fourth Circuit
Tenth and Main Streets
Richmond, Virginia 23219

Re: Andrew J. Easter, Vs.

Aetna Insurance Company,

No. 13,571

Dear Mr. Phillips:

The appellant of herein case, hereby Requests Reconsideration of the Decision of Haynsworth, Chief Judge, and Winter and Butzner, Circuit Judges, (Decided February 11, 1970) reference Appeal from the United States District Court for the District of Maryland, Baltimore, Edward S. Northrop, District Judge. That "Our examination of the briefs and record satisfies us that this appeal is without merit and that the district judge committed no reversible error. We dispense with argument and affirm."

The decision is arbitrary to the Order signed on November 13, 1967, by judge Edward S. Northrop, U. S. Dist. Court, Dist. of Md., Civil Action No. 16655, that the defendant's Motion is denied in part as to certain claims asserted by the plaintiff in his Amended Declaration, and granted in part as to certain claims, page 7-10, of Petitioner's Writ of Certiorari, as follows:

Para. 1. The Defendant's said Motion to Dismiss is denied as to the alleged claim by the plaintiff for $250 fire damages on September 29, 1963, in the premises at 6420 Belair Road.

Para. 2. The Defendant's said Motion to Dismiss is denied as to the alleged claim by the plaintiff for vandalism damages occurring prior to July 3, 1964, to the premises 6502 Belair Road.

Para. 8. THE DEFENDANT'S SAID MOTION TO DISMISS IS DENIED AS TO THE PLAINTIFF'S ALLEGATIONS CONCERNING "COMPENSATORY DAMAGES." $110,300.00—which consists of $10,000. amount of insurance, $300 for converting the Frame Dwelling into first and second floor apartments, and $100,000. for Punitive, Exemplary and Compensatory Damages.

UNITED STATES COURT OF APPEALS
FOURTH CIRCUIT

Samuel W. Phillips
Clerk

Telephone 643-5592
Area Code 703

Tenth and Main Streets
Richmond, Virginia 23219

February 27, 1970

Mr. Andrew J. Easter
2801 Adams Mill Road, N. W.
Apt. 108
Washington, D. C. 20009
George M. Radcliffe, Esq.
929 North Howard Street
Baltimore, Maryland 21201

No. 13,571, Andrew J. Easter, vs. Aetna Insurance Company.

Gentlemen:

Enclosed is certified copy of the order of this Court denying the Appellant's petition for rehearing in the above case.

Pursuant to Rule 41(a), the mandate will issue at the expiration of 7 days from the date of this order.

Sincerely yours,

SAMUEL W. PHILLIPS, CLERK

By /s/ Carol R. Lemon
Carol R. Lemon,
Chief Deputy Clerk.

CRL/mpj
Enclosure:

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13,571

ANDREW J. EASTER,
Appellant,

versus

AETNA INSURANCE COMPANY,
Appellee.

ORDER

Treat the request of Andrew J. Easter for reconsideration of the decision as a petition for rehearing, filed under Rule 40 of the Federal Rules of Appellate Procedure, the panel which initially decided the case is unanimously of the view that the petition should be denied. It is, therefore,

ORDERED, that said petition be, and it is hereby, denied.

For the Court:

/s/ Harrison L. Winter
United States Circuit Judge

Filed Feb 27 1970 Samuel W. Phillips Clerk

A True Copy, Teste:
Samuel W. Phillips, Clerk

By /s/ Margaret P. Johnson
Deputy Clerk